

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Brian Keith Munns,

Plaintiff,

v.

Greenville Police Department, Officer A.S.  
Smith, Sumter County Sheriff Department,  
Officer Colonel Bryant,

Defendants.

C/A No.: 6:19-2401-BHH

**ORDER AND OPINION**

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Jacquelyn D. Austin, which was made in accordance with 28 U.S.C. §36(b) and Local Rule 73.02 for the District of South Carolina. On August 30, 2019, the Magistrate Judge issued a Report and Recommendation recommending that this case be dismissed pursuant to § 1915(3)(2)(B), without issuance and service of process, as the complaint is legally frivolous and premature because his conviction and sentence have not been invalidated. (ECF No. 9.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made.

Plaintiff filed no objections and the time for doing so expired on September 23, 2019. In the absence of objections to the Magistrate Judge's Report and

Recommendation, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee’s note).

Here, because no objections have been filed, the Court has reviewed the Magistrate Judge’s findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that Plaintiff’s claims against Defendants are subject to summary dismissal for the reasons stated in the Report and Recommendation. Accordingly, the Report and Recommendation is adopted and incorporated herein by reference and this action is DISMISSED *without prejudice* and without issuance and service of process.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks  
United States District Judge

July 10, 2020  
Greenville, South Carolina

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#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.